

Memorandum

Date: April 24, 2009
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To: Vice Chairman James D. Boyd, Presiding Member
Commissioner Karen Douglas, Associate Member
Paul Kramer, Hearing Officer

From: California Energy Commission – Mike Monasmith
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Subject: **CARLSBAD ENERGY CENTER PROJECT (07-AFC-6) STATUS REPORT #6**

Pursuant to the Revised Committee Scheduling Order dated December 26, 2008, staff issues Status Report #6 for the proposed Carlsbad Energy Center Project (CECP) Application for Certification (AFC).

Discovery subsequent to Status Report #5, filed on March 16, 2009

Work on the discovery and analysis phase for the proposed CECP has been lengthy. It initially culminated with the publication of the Preliminary Staff Assessment (PSA) on December 11, 2008. Subsequent work has included a two-day PSA Workshop, held in Carlsbad on January 7-8, 2009, and, additional discovery and analysis outlined in Status Report #4 (filed on January 30, 2009), and Status Report #5 (filed on March 16, 2009).

The following provides the Committee a quick summary of the two technical areas for the CECP proceeding (Air Quality and Visual Resources) for which work has been necessary over the last six weeks. Additionally, as staff prepares to file its Final Staff Assessment (FSA), this status report will also contain a suggested process for the exchange of direct and rebuttal testimony and evidence, and other information such as witness lists, prior to the start of evidentiary hearings.

Status of Outstanding Information by Technical Area

AIR QUALITY

It is our current understanding that the San Diego Air Pollution Control District (District) will release their Final Determination of Compliance (FDOC) by the end of April, 2009. Delays in the release of the FDOC have occurred due to numerous factors, including the District's need for unfiled 2008 emission data for the Encina Power Station (EPS) and modeling information for the proposed CECP.

Status / Response

On April 20, 2009, applicant filed 2007/2008 fuel usage data for EPS Units 1-5, as well as NOx emission information. The new data information should provide the District with information it needs to complete the FDOC, and will also be helpful in providing technical staff a better sense of the applicant's new plan of operations for both CECP units (which will be reflected in the Air Quality section of the FSA).

VISUAL RESOURCES

As stated previously, staff did not speculate in its PSA regarding visual simulations of the proposed CECP and the potential for a widened Interstate 5 (I-5) freeway, which runs east of the proposed site. However, despite the lack of specific information, and a stated I-5 alignment alternative, visual simulations were made by the city of Carlsbad, which staff believes are inaccurate. The city has persisted, through filings and motions, to ask the applicant to produce visual simulations containing the CECP and a widened I-5 freeway.

Status / Response

While it is very unlikely that Caltrans will release its Final EIR/EIS before the conclusion of the 07-AFC-6 proceeding, staff will recommend appropriate, and proportionate mitigation for the project's contribution to cumulatively significant visual impacts, which will be reflected in the FSA. Importantly, staff will avoid speculation on possible impacts from a Caltrans project (I-5 widening) that has not yet been subject to CEQA review.

Evidentiary Hearings

The Committee has requested information concerning the process and schedule for hearings. Staff believes that the applicant should file/identify its testimony within two weeks following publication of the FSA, and that other parties should file their testimony within two weeks following that date. This could be followed shortly by a pre-hearing conference at which time the Committee would determine what issues require adjudication, what cross-examination is required, and whether there is need for any rebuttal testimony. Shortly thereafter, the Committee should issue a pre-hearing order indicating when any additional testimony is due, and the schedule for hearings.

FSA Publication

As always, staff continues to work towards resolving issues and making appropriate determinations on LORS compliance and associated mitigation and conditions of certification for inclusion in the FSA. With an FDOC planned for release by the end of April, staff at this time cannot provide a specific date for the publication of the FSA, other than to indicate it will be published, at the earliest, in mid-May, 2009.

cc : Docket (07-AFC-6)
Proof of Service List